

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDY D. GLAZE and U.S. POSTAL SERVICE,
POST OFFICE, McDonough, GA

*Docket No. 03-689; Submitted on the Record;
Issued May 20, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has established that she sustained an aggravation of her right knee condition in the performance of duty causally related to factors of her federal employment.

On March 4, 2002 appellant, then a 48-year-old clerk, filed a claim alleging that she sustained an aggravation of her right knee condition.¹ Appellant indicated that she had two previous surgeries on her right knee due to the accepted work-related injury of February 7, 1994.² Appellant did not stop work.

In a letter dated March 19, 2002, the Office of Workers' Compensation Programs advised appellant of the type of factual and medical evidence needed to establish her claim and requested that she submit such evidence. The Office particularly requested that appellant submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

In response to the Office's request, appellant submitted a medical report from Dr. Michael P. Bernot, a Board-certified orthopedist, dated December 17, 2001; an attending physician report from Dr. Bernot dated February 20, 2002; and two narratives statement dated February 6, 2002 and the second one date-stamped April 8, 2002. He indicated in his report of December 17, 2001, that he was treating appellant for right knee arthritis from an injury, which occurred on February 7, 1994. He noted that appellant could work subject to various restrictions.

¹ The record reflects that appellant filed a Form CA-2 on February 6, 2002 indicating that she sustained an aggravation of her accepted work-related injury of February 7, 1994 and it appears that she recited the same factual scenario as the Form CA-2 filed on March 4, 2002. However, the Form CA-2 filed on February 6, 2002 is not in the case record.

² The record reflects that appellant sustained an injury to her right knee on February 7, 1994, which was accepted in Office file No. 06-0595622.

The attending physician's report of February 20, 2002, indicated that appellant was being treated for right knee arthritis. Dr. Bernot did not indicate on the attending physician's report whether appellant's condition was caused or aggravated by an employment activity, rather he noted that appellant was a "recheck" and was first seen in 1997 and last seen in 2000. Appellant's narrative statement noted that she did not know if her job made her condition worse or if it had gotten worse on its own. Appellant's statement of April 8, 2002, noted that she developed arthritis of her right knee as a result of her employment injury of February 7, 1994.

In a decision dated May 6, 2002, the Office denied appellant's claim for compensation under the Federal Employees' Compensation Act.³ The Office found that the medical evidence was insufficient to establish that her medical condition was caused by employment factors.

By letter dated June 4, 2002, appellant requested a hearing before an Office hearing representative. The hearing was held on October 23, 2002. Appellant testified that her employment duties of sitting with her knee bent; walking across a concrete floor; carrying 10 pounds of mail; and constant twisting aggravated her right knee condition. Appellant also submitted various medical records from Dr. Bernot dated May 1994 to June 2002; an attending physicians report from Dr. Minon Honaker, an internist, dated January 24, 2002; and several narrative statements. Dr. Bernot's reports of 1994 to 1997, described appellant's postsurgical recovery and subsequent treatment for her right knee injury. Dr. Bernot's report of August 14, 2000, noted that appellant was placed in a limited-duty position. He noted that he could not explain why appellant's symptoms persisted despite her light-duty job, which was reasonable given her medical findings. The physician further noted that he did not understand why appellant could not perform a sedentary job. Dr. Bernot's report of December 17, 2001, noted appellant's pain was worse and that she was unable to stand or walk without pain. He indicated that appellant sustained no new trauma and noted that she could continue to work in her sedentary job. The physician's note of January 9, 2002 indicated that appellant was being treated for right knee pain and a right ankle contusion. Dr. Bernot's report of May 24, 2002 indicated a history of appellant's original work-related injury. He noted that appellant underwent two knee surgeries and has had progressive arthritis in the right knee since the February 7, 1994 motor vehicle accident. The physician indicated that appellant continued to complain of pain and x-rays revealed that the arthritis was progressing. Dr. Bernot's note of June 3, 2002 indicated that appellant was treated for right hip pain. His report of June 14, 2002, noted that appellant experienced right knee, right hip and ankle pain. The physician also submitted x-rays of the sacroiliac joints dated June 3, 2002, which revealed no abnormalities. Dr. Honaker's attending physicians report of January 24, 2002, indicated that appellant was treated for right knee pain. He diagnosed appellant with degenerative joint disease of the right knee and indicated with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. The physician noted that appellant was totally disabled from December 13 to 19, 2001. Appellant's statement dated October 16, 2002, indicated that she had surgery to remove cartilage from her right knee as a result of a motor vehicle accident, which occurred on February 7, 1994. Appellant indicated that her right knee condition had deteriorated since 1994 and that she had developed arthritis. Appellant noted that she was required to carry 10-pound bags of mail across a concrete floor, which aggravated her knee condition.

³ 5 U.S.C. §§ 8101-8193.

The employing establishment submitted a letter dated November 19, 2002, indicating that appellant was not required to pull or carry mail across the floor. The postmaster noted that appellant's job duties consisted of answering the telephone, calculating vehicle cards and ordering supplies. He noted that most of the walking appellant did was not related to her job duties. The postmaster further indicated that he assigned appellant less work than what was stated in her job description and that she was never required to carry 10 pounds of mail or to twist in order to perform her job duties.

By decision dated January 6, 2003, the hearing representative affirmed the decision of the Office on the grounds that the medical evidence of record failed to establish that appellant's right knee condition of February 6, 2002 was causally related to her employment.

The Board finds that appellant has failed to establish that she sustained an aggravation of her right knee injury in the performance of duty, causally related to factors of her federal employment.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that the injury was sustained in the performance of duty as alleged and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another.

The first component to be established is that the employee actually experienced the employment incident, which is alleged to have occurred.⁶

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁷

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ *Elaine Pendleton*, *supra* note 4.

⁷ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

In the instant case, it is not disputed that appellant worked a light-duty position, which involved sitting and nominal walking. However, she has not submitted sufficient medical evidence to support that a condition has been diagnosed in connection with the employment factor and that any alleged aggravation of a right knee condition is causally related to the employment factors or conditions. On March 19, 2002 the Office advised appellant of the type of medical evidence needed to establish her claim.

Appellant submitted medical reports from Dr. Bernot dated 1994 to 1997, which described her postsurgical recovery and subsequent treatment for her right knee injury. However, these reports are of no value in establishing the claimed aggravation of her knee condition since they predate the time of the claimed conditions of February and March 2002. Dr. Bernot's report of December 17, 2001, noted that appellant's pain was worse and that she was unable to stand or walk without pain. However, Dr. Bernot indicated that she sustained no new trauma and noted that she could continue to work in her sedentary job. His note of January 9, 2002, indicated that appellant was being treated for right knee pain and right ankle contusion, yet he did not provide a rationalized opinion regarding the causal relationship between appellant's right knee symptoms and ankle injury and any employment activity believed to have caused, contributed or aggravated such a condition.⁹ The attending physicians report of February 20, 2002, indicated that appellant was being treated for right knee arthritis. Dr. Bernot indicated that appellant received an injection. However, he did not indicate whether appellant's condition was caused or aggravated by an employment activity, rather he noted that appellant was a "recheck" and was first seen in 1997 and last seen in 2000. The physician's reports of May 24, June 3 and 14, 2002, indicated a history of appellant's original work-related injury and he noted appellant underwent two knee surgeries and has had "progressive arthritis in the knee" since the accident, which was the original cause of her symptoms. Dr. Bernot indicated that appellant continued to complain of pain while walking, standing, or on exertion and x-rays revealed that the arthritis was progressing. Although Dr. Bernot supported causal relationship in these conclusory statements he did not provide a rationalized opinion regarding the causal relationship between appellant's right knee condition and the employment incident occurring on or about February 2002 believed to have caused, contributed or aggravated such condition.¹⁰

⁸ *James Mack*, 43 ECAB 321 (1991).

⁹ *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

¹⁰ *Id.*

Even though Dr. Bernot noted that appellant was experiencing symptoms of her knee condition, without any further explanation or rationale, such report is insufficient to establish a causal relationship.¹¹ Therefore, these documents are insufficient to meet appellant's burden of proof.

Appellant also submitted an attending physicians report from Dr. Honaker dated January 24, 2002, which indicated that appellant was treated for right knee pain. He diagnosed appellant with degenerative joint disease of the right knee and indicated with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. The physician noted that appellant was totally disabled from December 13 to 19, 2001. However, the Board has held that an opinion on causal relationship, which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹²

The remainder of the medical evidence fails to provide an opinion on the causal relationship between this incident and appellant's diagnosed condition. For this reason, this evidence is insufficient to meet appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹³ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office, therefore, properly denied appellant's claim for compensation.

¹¹ *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

¹² *Id.*

¹³ *See Victor J. Woodhams*, *supra* note 5.

The decisions of the Office of Workers' Compensation Programs dated January 6, 2003 and May 6, 2002 are hereby affirmed.

Dated, Washington, DC
May 20, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member